

Order

Michigan Supreme Court
Lansing, Michigan

September 21, 2010

Marilyn Kelly,
Chief Justice

ADM File No. 2008-38

Michael F. Cavanagh
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway
Alton Thomas Davis,
Justices

Amendment of Rule 6.201
of the Michigan Court Rules

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendments of Rule 6.201 of the Michigan Court Rules are adopted, effective January 1, 2011.

[Additions are indicated by underlining and deletions are indicated by strikeover.]

Rule 6.201 Discovery.

- (A) Mandatory Disclosure. In addition to disclosures required by provisions of law other than MCL 767.94a, a party upon request must provide all other parties:
- (1) the names and addresses of all lay and expert witnesses whom the party may call at trial; in the alternative, a party may provide the name of the witness and make the witness available to the other party for interview; the witness list may be amended without leave of the court no later than 28 days before trial;
 - (2) any written or recorded statement, including electronically recorded statements, pertaining to the case by a lay witness whom the party may call at trial, except that a defendant is not obliged to provide the defendant's own statement;
 - (3) the curriculum vitae of an expert the party may call at trial and either a report by the expert or a written description of the substance of the proposed testimony of the expert, the expert's opinion, and the underlying basis of that opinion;
 - (4) any criminal record that the party may use at trial to impeach a witness;

- (5) a description or list of criminal convictions, known to the defense attorney or prosecuting attorney, of any witness whom the party may call at trial; and
 - (6) a description of and an opportunity to inspect any tangible physical evidence that the party may introduce at trial, including any document, photograph, or other paper, with copies to be provided on request. A party may request a hearing regarding any question of costs of reproduction, including the cost of providing copies of electronically recorded statements. On good cause shown, the court may order that a party be given the opportunity to test without destruction any tangible physical evidence.
- (B) Discovery of Information Known to the Prosecuting Attorney. Upon request, the prosecuting attorney must provide each defendant:
- (1) any exculpatory information or evidence known to the prosecuting attorney;
 - (2) any police report and interrogation records concerning the case, except so much of a report as concerns a continuing investigation;
 - (3) any written or recorded statements, including electronically recorded statements, by a defendant, codefendant, or accomplice pertaining to the case, even if that person is not a prospective witness at trial;
 - (4) any affidavit, warrant, and return pertaining to a search or seizure in connection with the case; and
 - (5) any plea agreement, grant of immunity, or other agreement for testimony in connection with the case.

(C)-(J)[Unchanged.]

- (K) Except as otherwise provided in MCR 2.302(B)(6), electronic materials are to be treated in the same manner as nonelectronic materials under this rule. Nothing in this rule shall be construed to conflict with MCL 600.2163a.

Staff Comment: This amendment specifically incorporates electronically recorded statements into the materials that must be provided to other parties in a criminal

proceeding, although the judge may specify the conditions for discovery as allowed under MCR 2.302(B)(6).

The staff comment is not an authoritative construction by the Court.



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 21, 2010

Corbin R. Davis
Clerk